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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
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11 MICHAEL ALEXANDRE PINKSTON, ) Case No. CV 15-00270-PA (KK)  
12 )  
13 Plaintiff, )  
14 v. ) ORDER DISMISSING COMPLAINT WITH  
15 ) LEAVE TO AMEND  
16 FACILITY CAPTAIN SEAN )  
17 MOORE, et al., )  
Defendants. )

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18 Plaintiff Michael Alexandre Pinkston has filed a *pro se*  
19 civil rights complaint pursuant to 42 U.S.C. § 1983  
20 ("Complaint"). The Court has now screened the Complaint pursuant  
21 to 28 U.S.C. § 1915(e)(2). Based upon the reasons set forth  
22 below, the Court dismisses the Complaint with leave to amend.  
23

24 STANDARD OF REVIEW

25 The Court's screening of a complaint under 28 U.S.C.  
26 § 1915(e)(2) is governed by the following standards. A complaint  
27 may be dismissed as a matter of law for failure to state a claim  
28 "where there is no cognizable legal theory or an absence of

1 sufficient facts alleged to support a cognizable legal theory."  
2 Shroyer v. New Cingular Wireless Servs., Inc., 622 F.3d 1035,  
3 1041 (9th Cir. 2010) (internal quotation marks omitted); accord  
4 O'Neal v. Price, 531 F.3d 1146, 1151 (9th Cir. 2008).

5 In considering whether a complaint states a claim, a court  
6 must accept as true all the factual allegations in it. Ashcroft  
7 v. Iqbal, 556 U.S. 662, 678, 129 S. Ct. 1937, 173 L. Ed. 2d 868  
8 (2009); Hamilton v. Brown, 630 F.3d 889, 892-93 (9th Cir. 2011).  
9 The court need not accept as true, however, "allegations that are  
10 merely conclusory, unwarranted deductions of fact, or  
11 unreasonable inferences." In re Gilead Scis. Sec. Litig., 536  
12 F.3d 1049, 1055 (9th Cir. 2008) (internal quotation marks  
13 omitted); see also Shelton v. Chorley, 487 F. App'x 388, 389 (9th  
14 Cir. 2012) (finding that district court properly dismissed claim  
15 when plaintiff's "conclusory allegations" did not support it).

16 Although a complaint need not include detailed factual  
17 allegations, it "must contain sufficient factual matter, accepted  
18 as true, to 'state a claim to relief that is plausible on its  
19 face.'" Iqbal, 556 U.S. at 678 (quoting Bell Atl. Corp. v.  
20 Twombly, 550 U.S. 544, 570, 127 S. Ct. 1955, 167 L. Ed. 2d 929  
21 (2007)). A claim is facially plausible when it "allows the court  
22 to draw the reasonable inference that the defendant is liable for  
23 the misconduct alleged." Id.

24 "A document filed pro se is to be liberally construed, and a  
25 pro se complaint, however inartfully pleaded, must be held to  
26 less stringent standards than formal pleadings drafted by  
27 lawyers." Erickson v. Pardus, 551 U.S. 89, 94, 127 S. Ct. 2197,  
28 167 L. Ed. 2d 1081 (2007) (citations and internal quotation marks

1 omitted).

2 If the court finds a complaint should be dismissed for  
3 failure to state a claim, the court has discretion to dismiss  
4 with or without leave to amend. Lopez v. Smith, 203 F.3d 1122,  
5 1126-30 (9th Cir. 2000). Leave to amend should be granted if it  
6 appears possible that the defects in the complaint could be  
7 corrected, especially if the plaintiff is pro se. Id. at 1130-  
8 31; see also Cato v. United States, 70 F.3d 1103, 1106 (9th Cir.  
9 1995). However, if, after careful consideration, it is clear a  
10 complaint cannot be cured by amendment, the court may dismiss  
11 without leave to amend. Cato, 70 F.3d at 1107-11; see also Moss  
12 v. U.S. Secret Serv., 572 F.3d 962, 972 (9th Cir. 2009).

#### 14 DISCUSSION

#### 15 THE COMPLAINT MUST BE DISMISSED FOR FAILING TO COMPLY WITH 16 FEDERAL RULE OF CIVIL PROCEDURE 8

17 Federal Rule of Civil Procedure 8(a) ("Rule 8") requires  
18 that a complaint contain "a short and plain statement of the  
19 claim showing that the pleader is entitled to relief." Further,  
20 Rule 8(d)(1) provides "[e]ach allegation must be simple, concise,  
21 and direct." As the Supreme Court has held, Rule 8(a) "requires  
22 a 'showing,' rather than a blanket assertion, of entitlement to  
23 relief." See Twombly, 550 U.S. at 555 n.3. Complaints that are  
24 "argumentative, prolix, replete with redundancy, and largely  
25 irrelevant" and that "consist[] largely of immaterial background  
26 information" are subject to dismissal under Rule 8. See McHenry  
27 v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996).

28 Here, Plaintiff has filed a complaint, along with multiple

1 declarations, attachments and exhibits, which comprise a total of  
2 165 pages.<sup>1</sup> ECF Docket No. ("dkt.") 1. The pages "consist[]  
3 largely of immaterial background information," thus, warranting  
4 dismissal under Rule 8. See McHenry, 84 F.3d at 1177. In fact,  
5 the Complaint contains so many irrelevant details that it is  
6 difficult for the Court to determine the exact nature of  
7 Plaintiff's claims. As such, the Complaint fails to comply with  
8 Rule 8's requirement of a "short and plain statement of the  
9 claim" and fails to provide defendants sufficient notice as to  
10 the claim against which they must defend. See also Clayburn v.  
11 Schirmer, No. CIV S-06-2182 ALA P, 2008 WL 564958, at \*3-4 (E.D.  
12 Cal. Feb. 28, 2008) (Alarcón, Circuit J., sitting by designation)  
13 (dismissing "long, rambling pleading" under Rule 8 and noting  
14 that "[t]he court (and any defendant) should be able to read and  
15 understand Plaintiff's pleading within minutes"); Little v. Baca,  
16 No. CV 13-0373 PA (RZ), 2013 WL 436018, at \*1-2 (C.D. Cal. Feb.  
17 1, 2013) (dismissing under Rule 8, a complaint "so lengthy and  
18 given over to tangents, minute details, matters that are  
19 self-evidently opinion, speechifying and other clutter that it is  
20 neither 'short' nor 'plain'"). Thus, the Complaint must be  
21 dismissed for failing to comply with Rule 8.

22 However, because it is unclear whether the Complaint can be  
23 cured by amendment, the Court grants Plaintiff leave to amend.  
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25 <sup>1</sup>Much of Plaintiff's complaint and "supporting" attachments  
26 appear to be an attempt at "proving" whatever allegation Plaintiff  
27 purports to make. Plaintiff is reminded he need only provide a  
28 "short and plain" statement of his claim pursuant to Rule 8.  
Plaintiff need not provide the "evidence" upon which he ultimately  
intends to rely at this stage of the proceeding.

1 In amending the Complaint, Plaintiff must state each of his  
2 claims separately and for each claim should identify "clearly and  
3 precisely" and briefly the legal basis and the facts underlying  
4 it. See Bautista v. L.A. Cnty., 216 F.3d 837, 840-41 (9th Cir.  
5 2000) ("Experience teaches that, unless cases are pleaded clearly  
6 and precisely, issues are not joined, discovery is not  
7 controlled, the trial court's docket becomes unmanageable, the  
8 litigants suffer and society loses confidence in the court's  
9 ability to administer justice."). Lengthy, rambling pleadings,  
10 such as the Complaint, that "leav[e] it to the Court to figure  
11 out what the full array of [Plaintiff's] claims is and upon what  
12 federal law, and upon what facts, each claim is based" remain  
13 subject to dismissal. Little, 2013 WL 436018, at \*3.

#### 14 15 ORDER

16 If Plaintiff desires to pursue any of the claims in his  
17 Complaint, he is ORDERED to file a First Amended Complaint  
18 ("FAC") no later than **April 15, 2015**, remedying the deficiencies  
19 discussed above. The FAC should bear the docket number assigned  
20 to this case, be labeled "First Amended Complaint," and be  
21 complete in and of itself without reference to the FAC or any  
22 other pleading, attachment, or document.

23 The Clerk is directed to provide Plaintiff with a Central  
24 District of California Civil Rights Complaint Form, CV-66, to  
25 facilitate Plaintiff's filing of a FAC if he elects to proceed  
26 with this action; **Plaintiff is encouraged to utilize that form,**  
27 **omitting argument and irrelevant facts.**

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1 Plaintiff is admonished that if he fails to timely file a  
2 sufficient FAC, the Court will recommend that this action be  
3 dismissed with prejudice on the grounds set forth above and/or  
4 for failure to diligently prosecute.

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7 DATED: March 25, 2015

HON. KENLY KIYA KATO  
U.S. MAGISTRATE JUDGE